

Alachua County, Florida
Ordinance 87-10 (regarding underground storage tanks)
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Adopted: 1987
Alachua County Board of County Commissioners
Florida Ordinance 87-10

AN ORDINANCE REGULATING UNDERGROUND STORAGE TANK SYSTEMS DESIGNED TO RECEIVE, STORE, CONTAIN OR DISPENSE PETROLEUM PRODUCTS; PROVIDING A short TITLE; PROVIDING FOR DECLARATION OF INTENT AND LEGISLATIVE FINDINGS; PROVIDING DEFINITIONS; PROVIDING EXEMPTIONS; PROVIDING FOR DESIGNATION OF COUNTY DEPARTMENT TO ADMINISTER THE CODE; PROVIDING FOR POWERS AND DUTIES OF THE DEPARTMENT; PROVIDING PROHIBITIONS; PROVIDING FOR PERMIT REQUIREMENTS; PROVIDING STANDARDS FOR STORAGE TANK SYSTEMS; PROVIDING STANDARDS FOR TANKS, PROVIDING STANDARDS FOR PIPING, PROVIDING OR LEAK DETECTION REQUIREMENTS; PROVIDING A COMPLIANCE SCHEDULE FOR EXISTING STORAGE TANK SYSTEMS; PROVIDING REQUIREMENTS FOR OUT-OF-SERVICE STORAGE TANK SYSTEMS AND ABANDONED STORAGE TANK SYSTEMS; PROVIDING FOR OPERATION AND MAINTENANCE REQUIREMENTS; PROVIDING FOR INSPECTIONS AND RECORD KEEPING; PROVIDING PROCEDURES REGARDING DISCHARGES; PROVIDING REQUIREMENTS FOR CONTAMINATION ASSESSMENT AND REMEDIAL ACTION; PROVIDING FOR THE ESTABLISHMENT OF FEES BY RESOLUTION; PROVIDING FOR VIOLATIONS, ENFORCEMENT AND REMEDIES; PROVIDING FOR PROCEDURES FOR APPROVAL OF VARIANCES AND ALTERNATIVE PROCEDURES; PROVIDING FOR DESIGNATION OF HEARING OFFICIAL; PROVIDING FOR USE OF AWARDS; PROVIDING FOR CREATION OF POLLUTION RECOVERY FUND; PROVIDING FOR SEVERABILITY; PROVIDING FOR LIBERAL CONSTRUCTION; PROVIDING A REPEALING CLAUSE; PROVIDING OR INCLUSION IN THE CODE; PROVIDING FOR FILING OF THE ORDINANCE PROVIDING AN EFFECTIVE DATE.

WHEREAS, Alachua County Ordinance 86-20, the Alachua County Charter, and Section 125.01, Florida Statutes, authorize the Board of County Commissioners of Alachua County, Florida , to provide standards which will ensure the health, safety, and welfare of the citizens of Alachua county; and,

WHEREAS, section 376.317, Florida Statutes, authorizes counties to adopt county-wide ordinances which regulate underground storage tanks, provided such ordinances contain regulations which are more stringent or extensive than the state laws or rules regulating such tanks, and provided such ordinances are approved by the State of Florida Department of Environmental Regulations; and,

WHEREAS, the Board of County Commissioners of Alachua County, Florida, deems it appropriate and in the interest of the public health, safety, and welfare of the citizens of Alachua County to adopt regulations relating to underground storage tanks, which regulations are

more stringent and extensive than the applicable state regulations;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ALACHUA COUNTY, FLORIDA:

Section 1. Short Title. This code shall be known and cited as the Alachua County Storage Tank Systems Code".

Section 2. Declaration of Intent and Legislative Findings. The Board of County Commissioners of Alachua County, Florida, finds and declares that the protection of public health and preservation of the soils, ground waters and surface waters of the County is a matter of the highest urgency and priority and that such protection can only be achieved effectively by maintaining the quality of the environment in as close to a pristine condition as possible. The Board further finds and declares:

a. That the storage of petroleum product within the County is a hazardous undertaking.

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b. That discharges of petroleum products that occur as a result of procedures taken by private and public entities involving the storage of such products pose threats of great danger and damage to the environment of the County, to the citizens of the County, and to other interests deriving livelihood from the County.

c. That such discharges have occurred in the past, are occurring now, and pose future threats of potentially catastrophic proportions, all of which are expressly declared to be inimical to the paramount health and welfare interests of the citizens of the County.

d. That such interests of the County outweigh any economic burden imposed by the Board upon those engaged in storing petroleum products and related activities.

The Board, in order to protect the environment of Alachua County, declares that the discharge of petroleum products from storage tank systems to the soils, ground waters and/or surface waters constitutes Pollution of the County and that such discharge is prohibited. The policy inherent in this prohibition shall be to protect human health and the environment of the County. Storage tank Systems that contain or will contain petroleum products shall be regulated by the Board of County Commissioners in order to: prevent discharge to the environment of the County; provide performance standards for system design; provide for early

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detection of discharge; provide for containment of discharge; provide for recovery of discharge;

and provide conditions for construction, operation, maintenance, replacement, and closure of storage tank Systems.

Section 3. Definitions. For the purpose of this ordinance, certain terms or words used herein shall be interpreted to have the following meanings unless another meaning is plainly intended. The word "shall" is mandatory; the word "may" is permissive.

- a. "Abandoned" shall mean a storage tank system or component thereof which:
 - (1) Is not intended to be returned to service; or,
 - (2) has been out of service for over three (3) years; or,
 - (3) cannot be tested in accordance with the requirements of this ordinance.
 - b. "Board" shall mean the Board of County Commissioners of Alachua County, Florida.
 - c. "Closure" shall mean the cessation of operation of a storage tank system, or any portion thereof, and the act of securing such system or portion in accordance with the closure permit requirements of this ordinance.
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- d. "Continuously operating, automatic leak detection system" shall mean a leak detection system which detects a failure of a primary containment System at the time of the failure. The system shall alert the storage tank system operator of the failure through a continuously operating, automatic alarm.
 - e. "County" shall mean Alachua County,
 - f. "Department" shall mean the Alachua Department of Environmental Services.
 - g. "Discharge" shall mean and include, limited to, any spilling, leaking, seeping, pouring, emptying, or dumping Qf any petroleum product to the waters, and/or surface waters of the County.
 - h. "Eastern Alachua County" shall mean those areas in Alachua County which lie east of the line described by heading north on United States Highway 441 from the southern boundary of Alachua County to the intersection of County Road 237 (vicinity of Hague), then heading north on County Road 237 to its end, and then continuing due north to the northern boundary of Alachua County. (See Exhibit "A" attached hereto.)

i. "Existing" shall mean and refer to a storage tank system or storage tank system component, which system or component was installed prior to the effective date of this ordinance.

j. "Ground water" shall mean water in a saturated zone or stratum beneath the surface of land or water, whether or not it is flowing through known and definite channels.

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k. "In service" shall mean a storage tank System which contains petroleum product and has petroleum product regularly added or withdrawn.

l. "New" shall mean and refer to a storage tank system or storage tank system component, which system or component is installed on or after the effective date of this ordinance and shall include replacements of existing components.

m. "Operator" shall mean a person operating a storage tank system, whether by lease, contract, or other form of agreement.

n. "Out-of-service" shall refer to the status of a storage tank system which is not in service, but which has not been abandoned as defined herein, and which has complied with the requirements of Section 13 of this ordinance.

o. "Overfill protection" shall mean or refer to a device or devices capable of preventing and containing an over-filling condition.

p. "Owner" shall mean a person owning a storage tank system or component thereof.

q. "Person" shall mean an individual, firm, partner-ship, corporation, association, joint venture, governmental entity, or other legal entity, and shall include the plural as well as the singular.

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r. "Petroleum product" shall mean any liquid fuel commodity made from petroleum, including, but not limited to, all forms of fuel known or sold as diesel fuel, kerosene, all forms of fuel known or sold as gasoline, and fuels containing a mixture of gasoline and other products, excluding liquefied petroleum gas and American Society for Testing and Materials (ASTM) grades No. 5 and No. 6 residual oils, bunker C residual oils, intermediate fuel oils used for marine bunkering with a viscosity of 30 and higher, and asphalt oils.

s. "Piping" shall mean product-tight, underground pipeline Systems used in connection with the storage and/or transfer of petroleum products within the confines of a

facility. Piping includes, but is not limited to, fill pipes, product lines, vent lines, and fittings.

t. "Primary containment" shall mean the first level of product-tight containment, i.e., the portion of that container which comes into immediate contact on its inner surface with the petroleum product being contained. The term "primary containment" does not include internal liners.

u. "Private water supply" shall mean any source of ground water other than a public water supply utility.

v. "Product-tight" shall mean impervious to the petroleum product which is or could be contained so as to prevent the seepage of the petroleum product from the containment

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system. To be product-tight, the containment system shall be made of a material that is not subject to physical or chemical deterioration by the petroleum product being contained.

w. "Public water supply utility" shall mean a system for the provision to the public of piped water for human consumption which serves at least fifteen (15) service connections used by year-round residents or regularly services at least twenty-five (25) year-round residents.

x. "Secondary containment" shall mean a level of product-tight containment which is external to and substantially separate from the primary containment and which surrounds all other underground components of the storage tank system. Secondary containment shall be constructed so as to provide for an interstitial monitoring space and may include liners, overliners, and/or double-walled tanks and piping.

y. "Storage tank facility" shall mean any location or part thereof containing a storage tank system or systems. The term "facility" may be used in this ordinance to refer to a storage tank facility.

z. "Storage tank system" shall mean any single, interconnected combination of underground storage tank(s), piping, pump(s), secondary containment, and other associated component(s) which are designed to be product-wetted for use in receiving, storing, containing, or dispensing petroleum products. For the

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purpose of this ordinance, "storage tank system" shall include underground piping integral to aboveground tanks.

aa. "Storage tank" shall mean an enclosed, stationary device which is designed for the purpose of storing petroleum product. The term "tank" as used in this ordinance shall refer to

an underground storage tank.

ab. "Underground storage tank" shall mean any storage tank of which ten percent (10%) or more of the tank volume is buried below the ground surface.

ac. "Vadose zone" shall mean the unsaturated (by water) soil zone below the land surface overlying the water table.

ad. "Western Alachua County" shall mean those areas of Alachua County which are contiguous to and lie west of the line described by heading north on United States Highway 441 from the southern boundary of Alachua County to the intersection of County Road 237 (vicinity of Hague), then heading north on County Road 237 to its end, and then continuing due north to the northern boundary of Alachua County. (See Exhibit "A" attached hereto.)

Section 4. Area Included. This ordinance shall be applicable throughout the entire area of Alachua County.

Section 5. Exemptions. The following systems are exempt from the provisions of this ordinance:

a. Storage tank systems for residential heating.

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b. Storage tank Systems for nonresidential use designed with tanks to contain a total aggregate volume of five hundred fifty (550) gallons or less of fuel oil, kerosene, lubricating oil, or waste oil.

c. Storage tank systems containing American Society for Testing and Materials grades No. 5 and No. 6 residual oils, bunker C residual oils., and asphalt oils.

d. Storage tank systems with aboveground tanks and aboveground piping only. This exemption is not intended as an exemption from any of the requirements of Chapter 17-61, Florida Administrative Code, relating to aboveground tanks. Underground piping which is integral to aboveground tanks is not exempt from this ordinance.

e. Septic tanks that are used or to be used to treat waste water.

f. Waste water collection, transmission, and treatment facilities, except those portions used solely to receive, store, And dispense petroleum products.

g. Water treatment, storage, and distribution facilities, except those portions used

solely to receive, store, and dispense petroleum products.

h. Storage tank systems containing or designed to contain gases or liquefied gases (fluids that are gases at 20C and 760mm atmospheric pressure).

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i. Electric transformers and transformer vaults as storage tank Systems, also including capacitors, oil switches, reclosures, oil circuit breakers, regulators, and pipe cable.

Section 6. Designation of Department. The Alachua County Department of Environmental Services is hereby designated as the County agency responsible for the administration and enforcement of this code.

Section 7. Powers and Duties of the Department.

a. The Department and its designated employees shall have the following powers and duties:

(1) Administer and enforce the provisions of this ordinance.

(2) Investigate complaints, study, and observe pollution conditions and make recommendations as to the institution of action necessary to abate nuisances caused by pollution, and as to prosecution of any violation of this ordinance.

(3) Make appropriate surveys, tests, and inspections of property, facilities, equipment, and processes operating under the provisions of this ordinance to determine whether the provisions of this ordinance are being complied with; and make recommendations for methods by which pollution may be reduced or eliminated. Inspections shall be conducted in accordance with subsection "b" below.

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(4) Maintain, review, and Supervise all operating records required to be filed with the Department by persons operating storage tank Systems subject to the provisions of this ordinance.

(5) Render all possible assistance and technical advice to persons owning and/or operating Storage tank Systems except that the Department and/or its employees shall not design storage tank Systems for any person.

(6) Perform such other administrative duties as may be assigned by the Board.

b. Inspections.

(1) Right to Inspect.

(a) Any duly authorized representative of the Department may, at any reasonable time, enter and inspect for the purpose of ascertaining the state of compliance with this ordinance any property, premises, or place, except a building which is used exclusively for a private residence, on or at which a Storage tank system or facility is located or is being constructed or installed or where records which are required under this ordinance are kept.

(b) Any duly authorized representative may, at reasonable times, have access to and copy any records required under this ordinance; inspect any monitoring equipment or method; sample for any petroleum product which the owner or operator of

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such source may be discharging or which may otherwise be located on or underlying the owner's or operator's property; and obtain any other information necessary to determine compliance with permit conditions or other requirements of this ordinance.

(c) No person shall refuse reasonable entry or access to any authorized representative of the Department who requests entry for purposes of inspection and who presents appropriate credentials; nor shall any person obstruct, hamper, or interfere with any such inspection. The owner or operator of the premises shall receive a report, if requested, setting forth all facts found which relate to compliance status.

(2) An inspection pursuant to subsection (1) may be conducted only after:

(a) Consent for the inspection is received operator, or person in charge; or,

(b) The appropriate inspection warrant as this section is obtained.

(3) Inspection Warrant.

(a) An inspection warrant as authorized by this ordinance may be issued by a judge of any county court or circuit court of this state which has jurisdiction of the place or thing to be searched.

(b) Upon proper affidavit being made, an inspection warrant may be issued under the provisions of this ordinance:

i. When it appears that the properties to be inspected may be connected with or contain evidence of the violation of any of the provisions of this ordinance; or,

ii. When the inspection sought is an integral part of a large scheme of systematic routine inspections which are necessary to, and consistent with, the continuing efforts of the Department to ensure compliance with the provisions of this ordinance.

(c) The judge shall, before issuing the war-rant, have the application for the warrant duly sworn to and subscribed by a representative of the Department; and he may receive further testimony from witnesses, supporting affidavits, or depositions in writing to support the application. The affidavit and further proof, if had or required, shall set forth the facts tending to establish the grounds specified in paragraph (b) or the reasons for believing that such grounds exist.

(d) Upon examination of the application and proofs submitted and, if satisfied that cause exists for the issuing of the inspection warrant, the judge shall there upon issue a warrant, signed by him with the name of his office, to any Department representative, which warrant will authorize the representative forthwith to inspect the property described in the warrant.

Section 8. Prohibitons.

a. Discharge. No person shall discharge or cause or permit the discharge of a petroleum product from a storage tank system or storage tank facility to the soils, ground water or surface waters of the County. Any person knowing or having evidence of a discharge shall report such information to the Department. Any person who discovers a discharge of petroleum product while installing, replacing, repairing, or inspecting a storage tank system or aboveground or underground utilities shall, in addition to reporting the discharge to the Department, report the discharge to the owner, operator, or agent of the storage tank system, if known.

b. Tampering. No person shall tamper with or bypass or cause or permit tampering with or bypassing of the secondary containment or leak detection components of a storage tank System, except as necessary for maintenance or testing of those components.

c. Siting. No person shall construct a new storage tank system or expand the

petroleum product storage capacity of an existing storage tank system within three hundred (300) feet of an existing private water supply utility well, or within one thousand (1,000) feet of an existing public water supply well. However, in cases involving the expansion of the petroleum product storage capacity of an existing storage tank system which has an existing

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private water supply well on the site of the storage tank system, a variance may be granted from the distance requirements between the intended expansion and the onsite private supply well when such distance requirements create a unique or special hardship on the use of the site. This siting prohibition shall not be applicable to retrofitting or replacement of an existing storage tank system or component thereof, provided the retrofitting or replacement does not increase the petroleum storage capacity of the system.

d. Construction. No person shall construct, modify, install, or replace a storage tank system or component thereof without complying with the requirements of this ordinance.

e. Operation. No person shall operate a storage tank system without complying with the requirements of this ordinance.

f. Closure. No person shall close a storage tank system that has been used to store petroleum products without complying with the requirements of this ordinance.

g. Abandoned Storage Tank Systems. No person shall maintain an abandoned storage tank system. No person shall receive, store, or dispense petroleum products at an abandoned storage tank system. Any person knowing or having evidence of the existence of an abandoned storage tank system shall report such knowledge or information to the Department.

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h. Building Permits, Certificate of Occupancy and Approvals for Use. No agency of the County or of any city located within the County, nor any employee, official, or agent thereof shall issue a building permit or certificate of occupancy for use or any authorization which directly and substantially involves the installation, replacement, repair, or removal of underground storage tanks, piping, or appurtenant equipment without prior approval of the Department.

Section 9. Permits.

a. Classes of permits:

(1) Construction Permit. No person shall construct, modify, install, or replace a storage tank system or component thereof without a construction permit.

(2) Operation Permit. No person shall operate a storage tank system without an operation permit.

(3) Closure Permit. No person shall close a storage tank system without a closure permit.

b. Permit procedure:

(1) General requirements:

(a) Application for a construction, operation, or closure permit, or renewal, or transfer thereof, shall be made and completed in the manner and on the forms prescribed by the Department. The application shall be completed with all requested information and shall be signed by the owner or Section

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operator as applicable. The completed application shall be submitted to the Department, together with the appropriate permit fee.

(b) The permit application information and supporting documentation must be complete, truthful, and correct. Falsification of application information is grounds for denial, suspension, or revocation of a permit.

(c) Within thirty (30) days after receipt of the application, the Department shall examine the application. When an application for a permit is found deficient in any respect, or the required information or permit fee has not been submitted to the Department, the Department shall notify the applicant of the deficiencies or lack of information and allow reasonable time for corrections or submission of the necessary information. After receipt of all required information and the permit fee, the Department must either issue or deny a permit within sixty (60) days.

(d) The Department shall issue a permit or renew or transfer a permit upon the applicant's demonstration that all standards required by this ordinance and other applicable regulations have been met and upon receipt of the appropriate permit fee.

(e) A permit, when issued, shall be in the name of the owner or operator, as applicable, which name may be

that of an individual, firm, association, joint venture, corporation, partnership, governmental entity, or other legal entity. A permit shall specify the storage tank system covered by the permit. A permit may cover one (1) or more storage tank Systems located at the same storage tank facility. A permit shall provide conditions necessary to ensure that the provisions of this ordinance are met. Commencement of construction of a storage tank system under a construction permit or operation of a storage tank system under an operating permit shall be deemed acceptance of all conditions specified in the permit.

(f) A permit, when issued, shall contain a commencement date and expiration date. A permit shall be issued for a term not to exceed twelve (12) months. Application for renewal of a permit shall be made sixty (60) days prior to the permit expiration date. Permits shall be effective unless suspended, revoked, surrendered, or expired.

(g) Upon sale or legal transfer of a permitted system, the new owner or operator shall apply by letter to the Department for a transfer of the permit within thirty (30) days of the sale or legal transfer. The transferor shall remain liable for performance in accordance with the permit until the transferee applies for and is granted transfer of the permit.

(h) The issuance of a permit does not convey any vested rights or exclusive privileges, nor does a permit

authorize any injury to public or private Property, any invasion of personal rights, or any

violation of Federal, state, or local laws or regulations.

(i) A permit does not constitute a waiver of or approval of any other permit or license or other approval that may be required for other aspects of the total project or operation.

(j) A permit, or copy thereof, must be available for inspection on the permitted premises during the life of the permit.

(k) By accepting a permit, the permittee understands and agrees that all records, notes, monitoring data, and other information relating to the construction or operation of the permitted system that are submitted to the Department may be used as evidence in any enforcement proceeding.

(l) The permittee, by acceptance of a permit, specifically agrees to allow access to the permitted site at reasonable times by authorized Department personnel for the purpose of inspection and testing to determine compliance with the permit and the provisions of this ordinance.

c. Construction permits.

(1) When required. A construction permit shall be obtained prior to the installation of a new storage tank system or a component thereof, replacement of a component of an existing storage tank system, or installation of a leak detection system

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for an existing storage tank system in accordance with subsection 11c hereof. Construction permits for components will only be required for replacement or repair of containment or leak detection components.

(2) Application. The owner of the storage tank system shall complete and sign the application for a construction permit.

(3) Documents. When a construction permit is required, the following information and accompanying documentation as may be applicable shall be submitted to the Department, together with the completed application.

(a) Construction plans and specifications for the storage tank system, which shall include, but not be limited to:

i. Tank configurations, dimensions, and capacities;
materials of construction; location of manways, inlets, and outlets:

ii. Piping configuration, location of pumps, and other

appurtenances.

iii. Secondary containment details.

iv. Leak detection system details.

v. Overfill protection details.

vi. Plan view that shows the relative locations of the tanks, their appurtenances, and secondary containment.

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The construction plans and specifications for the storage tank system enumerated in (a)i through (a)vi above shall be prepared under the direction of and signed and sealed by a professional engineer registered in the State of Florida.

(b) The location of surface water bodies within a one-half ($\frac{1}{2}$) mile radius.

(c) A door-to-door survey to establish the location of water supply wells (including potable and irrigation wells) up to one-half ($\frac{1}{2}$) mile from the storage tank facility if the facility is located in Western Alachua County, and up to one thousand (1,000) feet from the facility if the facility is located in Eastern Alachua County, or such lesser distance as approved by the Department.

(d) A site history summarizing descriptions and dates of storage tank facility or system installations, modifications, alterations, replacements, repairs, discharges, and such other site information as may be reasonably available to the applicant. The permit shall not be denied due solely to unavailability of the site history information, provided the applicant has demonstrated that he has taken all reasonable measures to secure such information.

(4) Supervision.

(a) The owner or operator of a storage tank system shall retain the services of a person who is certified as a

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pollutant storage system specialty contractor to install the storage tank system, and to supervise and inspect the construction, modification, repair, expansion, or replacement of the system.

(b) The owner or operator of a storage tank system shall retain the services of a person who is trained and certified in the correct use of the equipment by the manufacturer of the leak detection system to be installed. Such person shall supervise the

installation, testing, and calibration of the leak detection system. This provision shall not be required for installation of a leak detection system described in subsection 11c.

(5) Trial Operating and Testing.

(a) When the Department issues a permit to construct, the permittee shall be allowed, as part of the permit, to conduct trial operation activities and testing in order to determine compliance with the provisions of this ordinance.

(b) Hydrostatic pressure test shall be performed in accordance with NFPA 329, Chapter 4-3.10, or other tests of equivalent or superior accuracy. Such test shall be conducted by a person trained and certified in the correct use of the necessary equipment by the manufacturer of the test equipment. The tests shall be performed in accordance with the procedures and requirements of the test system manufacturer.

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(6) As-builts. Prior to any person causing, allowing, permitting, or suffering the placement of any petroleum product in a storage tank system covered by a construction permit, pursuant to this ordinance, as-built drawings, signed and sealed by a professional engineer registered in the State of Florida, shall be submitted to the Department for approval. As-built drawings may not be approved unless the owner or operator demonstrates that the system has been constructed in substantial conformity with the permit.

d. Operation Permits.

(1) When Required. Prior to any person operating a storage tank system an operation permit shall be obtained.

(2) Application. The owner or operator of the storage tank system shall complete and sign the application for an operation permit.

(3) Existing Storage Tank Systems. All owners or operators of existing in-service storage tank systems shall apply to the Department for an operation permit within ninety (90) days of the effective date of this ordinance. All such storage tank systems for which application for an operation permit has been timely filed are authorized to, operate prior to the issuance of their initial operation permit by the Department.

(4) New Storage Tank Systems. For all storage tank systems constructed pursuant to a construction permit under

this ordinance, the owner or operator of the storage tank system shall apply for an operation permit after completion of construction and prior to operating the system. An operation permit may be denied if the system has not been constructed in substantial conformity with the construction permit. Prior to the Issuance of the operating permit, applicants for an operation permit for a new storage tank system shall provide the Department with a copy of a test report which demonstrates that the applicant has performed hydrostatic pressure testing in accordance with NFPA 329 on the system and has made necessary adjustments to assure that the system will be in compliance with this ordinance.

e. Closure Permits.

(1) Application. At least thirty (30) days prior to the planned date for closure of an operating or out-of-service storage tank system, the system owner or operator shall apply to the Department for a closure permit.

(2) Closure process. Upon receipt of a closure permit, the system owner or operator shall carry out the following closure process within one hundred eighty (180) days:

(a) System Removal. All components of the storage tank system shall be removed from the site. Under conditions in which removal may endanger the structural integrity of a building or other structure, a variance may be granted by the Department to allow in-place decontamination and filling with

concrete or other equivalent material. Refer to "Recommended Practice for Abandonment or Removal of used underground Service Station Tanks", American Petroleum Institute Bulletin No. 1604, which bulletin is incorporated herein by reference as if fully set forth, for recommended procedures.

(b) Closure Contamination Assessment. A contamination assessment and any necessary remedial action shall be conducted in accordance with Section 16 hereof.

(c) Notice of Closure. The owner of the real property on which a storage tank system has undergone closure shall record, in the public records of the County, a notice which includes a legal description of the property where the closure occurred and which indicates that the property housed a storage tank system and indicates the closure procedures which were taken. The notice shall be submitted to the Department for review and approval prior to recording of the notice.

f. Denial, Suspension or Revocation of Permits:

(1) The Department may deny, suspend, or revoke a permit for failure to comply with this ordinance, and the conditions of the permit. The Department may revoke any

permit issued by it if it finds that the permit holder or his agent:

(a) Submitted false or inaccurate information in the application or operational reports.

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(b) Has violated the provisions of this ordinance or permit conditions.

(c) Has failed to submit operational reports or other information required by this ordinance or by permit conditions.

(d) Has refused lawful inspections as required by this ordinance.

(2) When the Department has reasonable cause to believe that grounds for the denial, suspension, or revocation of a permit exist, it shall notify the applicant or permittee in writing, stating the grounds upon which the permit is being denied, suspended, or revoked, and advising the applicant or permittee of the right to a hearing in accordance with Section 21. If the applicant or permittee makes no written request to the Department for a hearing within fifteen (15) calendar days from receipt of such notice, the permit shall be deemed denied, suspended, or revoked. If a timely request for a hearing is made, a hearing shall be held in accordance with the provisions of Section 21 hereof.

Section 10. Storage Tank System Standards.

a. General

(1) All new storage tank Systems and all existing storage tank systems shall meet the requirements for tank standards described in subsection "b herein, piping standards

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described in subsection "c" herein, and overfill protection standards described in subsection "d" herein. New storage tank Systems shall meet these standards when installed. All existing storage tank systems shall meet these standards in accordance with the compliance schedule set forth in Section 12.

(2) In addition to the other requirements as set forth in this ordinance, all new storage tank Systems or expansions, replacements, or modifications of existing storage tank systems shall be installed in accordance with the manufacturer's requirements and designed

and constructed in accordance with the applicable provisions of the following, which are incorporated herein by reference as if fully set forth:

- (a) Chapter 17-61, Florida Administrative Code; and,
- (b) "Installation of Underground Petroleum Storage Systems", American Petroleum Institute, Publication 1615;
- (c) "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems", American Petroleum Institute, Publication 1632;
- (d) "Flammable and Combustible Liquids Code", National Fire Protection Association, Bulletin 30;
- (e) "Recommended Practices for Installation of Underground Liquid Storage Systems", Petroleum Equipment Institute, RPIIO-16;

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- (f) The Southern Standard Building Code;
- (g) Other publications approved by the Department.

b. Tank Standards.

- (1) All new underground storage tanks shall be equipped with secondary containment as defined in subsection 3x of this ordinance when the tank is installed. All existing underground storage tanks shall be retrofitted with secondary containment in accordance with the compliance schedule contained in Section 12 hereof.
- (2) All underground storage tanks shall be product-tight and designed, constructed, installed, and maintained in a manner which will prevent discharges of petroleum products.
- (3) Acceptable materials for tank construction include cathodically protected steel, glass fiber-reinforced plastic, steel-clad with glass fiber-reinforced plastic, or other equivalent or superior corrosion resistant material approved by the Department.
- (4) All underground storage tanks shall be equipped with a strike plate beneath the fill pipe and gauge opening.
- (5) All secondary containment for tanks shall be installed with a leak detection system in accordance with subsection 11b. The secondary containment shall be of such configuration to accommodate recovery of petroleum product within the containment area.

(6) All secondary containment for tanks shall be designed to control storm drainage or other moisture that becomes trapped within the confines of the secondary containment in such a manner that soil, ground waters and surface waters outside the secondary containment do not become contaminated by any discharge.

c. Piping Standards.

(1) All new underground Piping shall be equipped with secondary containment as defined in subsection 3x of this ordinance when the piping is installed. All existing underground piping shall be retrofitted with secondary containment in accordance with the compliance schedule contained in Section 12.

(2) All underground piping installed as a component of a storage tank system shall be product-tight and designed, constructed, installed, and maintained in a manner which will prevent discharges of petroleum product. The vent lines shall not be required to have secondary containment.

(3) Acceptable materials for pipe construction include cathodically protected galvanized iron, glass fiber-reinforced plastic, or other equivalent or superior corrosion-resistant material approved by the Department.

(4) All secondary containment for piping shall be installed with a leak detection system in accordance with subsection 11b. The secondary containment shall be of such configuration to accommodate recovery of petroleum product within the containment area.

(5) All secondary containment for piping shall be designed to control storm drainage or other moisture that becomes trapped within the confines of the secondary containment such a manner that soil, ground waters and surface waters outside the secondary containment do not become contaminated by any discharge.

d. Overfill Protection Standards

(1) Overfill protection for new or replacement tanks shall consist of a compatible product-tight hose connection, a product-tight containment device and a vent line check valve capable of containing an overfilling condition and preventing a discharge. An equivalent or superior design for overfill protection may be approved by the Department.

(2) Overfill protection for existing tanks shall consist of a compatible product-tight hose connection, and a product-tight containment device and a vent line check valve or extended vent lines capable of containing an overfilling condition and preventing discharge. An equivalent or superior design for overfill protection may be approved by the Department.

Section 11. Leak Detection Requirements.

a. General.

(1) All new storage tank system shall, when installed, be equipped with an approved leak detection system as described in subsection "b" herein.

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(2) All existing storage tank systems shall, by the date specified in subsection 12a(2), be equipped with an approved leak detection System as described in subsection "c" herein.

(3) Alternative. leak detection Systems for new and existing storage tank Systems may be approved by the Department upon demonstration by the applicant that the proposed alternative provides an equivalent or superior level of leak detection capability.

(4) All approved leak detection Systems shall be installed, maintained, and operated in accordance with the manufacturer's requirements.

b. New storage tank Systems. All new storage tank Systems shall have a continuously operating, automatic leak detection system. The system must be capable of indicating either the presence of a leak of petroleum product from the storage tank system's primary containment (tanks and piping) or a failure or breach of integrity of the primary containment of the storage tank system. A piping leak detector shall have the capability of detecting discharges from piping and of restricting the flow to the piping in the event of a discharge.

c. Existing storage tank Systems.

(1) Prior to meeting the secondary containment requirements for tanks and piping as set forth in Section 10 in

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accordance with the compliance schedule in Section 12 existing storage tank systems shall be equipped with a leak detection system, which consists of the following:

(a) A network of at least four (4) monitoring wells shall be placed in the excavation around the tank or tanks. The monitoring wells shall be designed, constructed, and installed in accordance with the requirements of subsection "d" herein; and,

(b) A continuously operating automatic piping leak detection system which detects discharges from piping and restricts flow to the piping in the event of a discharge; and,

(c) a network of monitoring wells designed, constructed, and installed in accordance with the requirements of subsection "d" herein, of a sufficient number and placed in locations that will provide the capability of detecting leaks from piping.

(2) Existing storage tank systems shall be equipped with a continuously operating, automatic leak detection System as described~in Db~ above (as required for new storage tank systems) at the time the existing storage tank system meets the secondary containment requirements for tanks and piping as set forth in Section 10 and in accordance with the compliance schedule in Section 12.

d. Leak Detection Wells.

(1) General. The following are general requirements applicable to both ground water and vadose zone monitoring wells used for leak detection purposes:

(a) The number and type of monitoring wells shall be based on the size and configuration of the system and the hydrogeologic setting.

(b) Vadose zone and ground water monitoring will be required for leak detection purposes in cases where the annual low water table is less than twenty-five (25) feet below land surface, unless it can be demonstrated, on a case-by-case basis, that use of only one (1) of these methods will provide an equivalent or superior level of leak detection capability.

(c) Ground water monitoring will not be approved for leak detection purposes in cases where the annual low water table is greater than twenty-five (25) feet below land surface, unless it can be demonstrated, on a case-by-case basis, that it is the preferred method for monitoring the particular storage tank system.

(d) Monitoring wells installed prior to the effective date of this ordinance may be used as a part of the leak detection system approved by the Department.

(e) All monitoring wells shall be equipped with a water-tight locking cap and clearly labeled to prevent unauthorized or unintentional access.

(f) All monitoring wells used for the purpose of leak detection shall be developed upon completion (except for vadose zone wells) until the water is clear by over-pumping, surging with compressed air, or surge block, a combination of the above, or other methods approved by the Department;

(g) Prior to installation, the well installer must obtain all applicable permits or approvals from other local or state agencies having jurisdiction over same.

(h) Leak detection Systems installed as required herein shall be operated and maintained in accordance with the requirements of Section 15.

(2) Ground water monitoring wells used for the purpose of leak detection shall be designed to meet the following specifications.

(a) The well casing shall:

i. Be a minimum of two (2) inches in diameter;

ii. Be slotted from the bottom to at least two (2) feet above the normal annual high water table;

iii. Have a minimum slot size of 0.020 inch;

iv. Be completed by backfilling with appropriate clean filter pack or wrapping in an appropriate filter cloth to prevent clogging under soil conditions where silty fines will bind the minimum slot size.

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v. Be constructed of schedule 40 PVC or other material which is impervious to the petroleum product stored, using threaded joints;

vi. Be sealed into the borehole at the surface with an impervious barrier designed to prevent contamination of the well by surface pollutants and damage to the well;

vii. Be installed in a pavement level vault which is capable of withstanding traffic loads without damage to the well if the well location is in a vehicular traffic area

viii. Be capable of preventing an accumulation of storm water.

ix. Be of sufficient length that the bottom of the casing shall be at least five (5) feet below the water level at the time of drilling, but no greater than twenty-five (25) feet below land surface; or,

x. Extend to within six (6) inches of the bottom of the secondary containment, but shall not contact the containment, if the well is installed within the secondary containment.

(b) Alternative ground water monitoring well specifications may be approved by the Department upon demonstration by the applicant that the proposed alternative specifications provide an equivalent or superior leak detection capability.

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(3) Vadose zone monitoring wells used for the Purpose of leak detection shall be designed to meet the following

Specifications:

(a) The well casing shall:

- i. Be a minimum of one-half (1/2) inch in diameter;
- ii. Be slotted from the bottom to a maximum of five (5) feet from the surface;
- iii. Have a minimum slot Size of 0.020 inch.
- iv. Be completed by backfilling with appropriate clean filter pack or wrapping in an appropriate filter cloth to prevent clogging under soil conditions where silty fines will bind the minimum slot size;
- v. Have a minimum length of five (5) feet of annular seal and an impervious barrier used to seal the borehole at the surface to prevent contamination of the well by surface pollutants and damage to the well. Other length of annular seal may be allowed should five (5) feet prove to be impractical due to shallow depth of tank or piping;
- vi. Be constructed of schedule 40 PVC or other material which is impervious to the petroleum product stored using threaded joints.

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vii. Be installed in a pavement level vault which is capable of withstanding traffic loads without damage to the well if the well location is in a vehicular traffic area.

viii. Be capable of preventing an accumulation of storm water.

ix. The casing shall extend to the bottom of the backfill, if the well is installed within the tank back-fill, but no greater than twenty-five (25) feet below land surface.

x. The casing shall extend at least five (5) feet beneath the tank backfill, if the well is installed in natural formation outside of the tank or piping backfill, but no greater than twenty-five (25) feet below land surface.

xi. Extend to within six (6) inches of the bottom of the secondary containment, but shall not contact the containment, if the well is installed within the secondary containment.

(b) Alternative vadose Zone monitoring well specifications may be approved by the Department upon demonstration by the applicant that the proposed alternative provides an equivalent or superior leak detection capability.

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Section 12. Compliance Schedule for Existing Storage Tank Systems.

a. General.

(1) Within one (1) year of the effective date of this ordinance, all existing storage tank Systems shall be equipped with overfill protection. in accordance with subsection 10d of this ordinance.

(2) By the date Specified in Table DA~ below for detection system installation, all existing storage tank sys shall be equipped with a leak detection system in accordance subsection 11c of this ordinance.

(3) Within one (1) year of the effective date of this ordinance, all existing Storage tank systems shall provide to the Department the documentation specified in Subsection 9c(3)(b), (c), and (d),

b. System Retrofit/Replacement.

(1) Western Alachua County.

(a) Within one (1) year of the effective date of this ordinance, or the date specified in the compliance schedule in Table "A" below, whichever date occurs first, existing Storage tank Systems located within one (1) mile of the public water supply utility wells of the cities of Alachua, Archer, High Springs, Micanopy, or Newberry shall be equipped with secondary containment for tanks and piping in accordance with Section 10,

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and continuously operating, automatic leak detection System in accordance with subsection 11b, and shall have conducted a base line contamination assessment in accordance with Section 16.

(b) Within three (3) years of the effective date of this ordinance, or the date specified in the compliance schedule in Table "A" below, whichever date occurs first, existing storage tank Systems located in areas served by the public water supply utility of the City of Gainesville shall: be equipped with secondary containment for tanks and Piping in accordance with Section 10, and continuously operating, automatic leak detection system in accordance with subsection 11b, and shall have conducted a baseline contamination assessment in accordance with Section 16.

(c) Within two (2) years of the effective date of this ordinance, or the date specified in the compliance schedule in Table "A" below, whichever date occurs first, existing storage tank Systems located in areas of Western Alachua County, not described in (a) or (b) above, shall be equipped with secondary containment for tanks and piping in accordance with Section 10, and a continuously operating, automatic leak detection System in accordance with subsection 11b, and shall have conducted a baseline contamination assessment in accordance with Section 16.

(2) Eastern Alachua County.

(a) Within two (2) years of the effective date of this ordinance, or the date specified in the compliance

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schedule in Table "A" below, whichever date occurs first, existing storage tank systems located within one (1) mile of the public water supply utility wells of the cities of Gainesville, Hawthorne, and Waldo shall be equipped with secondary containment for tanks and piping in accordance with Section 10 and continuously operating, automatic leak detection system in accordance with subsection 11b, and shall have conducted a baseline contamination assessment in accordance with Section 16.

(b) Within six (6) years of the effective date of this ordinance, or the date specified in the compliance schedule in Table "A" below, whichever date occurs first, existing storage tank systems located in areas of Eastern Alachua County which are served by the public water supply utility of the City of Gainesville shall be equipped with secondary containment for tanks and piping in accordance with Section 10, and a continuously operating, automatic leak detection system in accordance with subsection 11b, and shall have conducted a baseline contamination assessment in accordance with Section 16.

(c) Within four (4) years of the effective date of this ordinance, or the date specified in the compliance schedule in Table DA~ below, whichever date occurs first, existing storage tank systems located in areas of Eastern Alachua County not described in (a) or (b) above shall be equipped with secondary containment for tanks and piping in accordance with Section 10,

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and continuously operating, automatic leak detection System in accordance with subsection 11b, and shall have conducted a base line contamination assessment in accordance with Section 16.

c. Alternative Compliance for Tanks. Existing storage tank systems located in either Western or Eastern Alachua County which have glass fiber- reinforced plastic tanks, glass fiber-reinforced plastic-clad steel tanks, or cathodically protected steel tanks (the tank and the cathodic protection system must have been newly installed as a unit) which tanks meet the new storage tank standards of Chapter 17-61, Florida Administrative Code, and were installed after January 1, 1980, shall not be required to have these tanks retrofitted or replaced to meet the secondary containment requirements for tanks (in accordance with Section 10) until twenty (20) years from the date of installation of the tank system so described above. These storage tank systems must, however, meet the requirements for overfill protection, leak detection System and documentation as set forth in "a" above, and must comply with secondary containment, continuously operating, automatic leak detection requirements for piping and baseline contamination assessment in accordance with the applicable compliance dates of "b" above. These storage tank systems shall be equipped with a continuously operating, automatic leak detection System for the tanks as described in Section 11b when the tanks are retrofitted or replaced.

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d. Notwithstanding the foregoing provisions, in the event of a discharge from any component of an existing storage tank system, wherever located in the County, the system having the discharge shall not be operated until the failed component has been replaced or retrofitted with product-tight secondary containment in accordance with Section 10, and a continuously operating, automatic leak detection system which meets the requirements of Section 11b is installed, and such other requirements of Section 15(e)(2) are met.

TABLE "A"

COMPLIANCE SCHEDULE *

Tank Installation Date	Tank & Piping Retrofit & BCA** Deadline	Leak Detection System Installation Deadline
Prior to 1-1-70	12-31-89	12-31-87
1-1-70 to 12-31-73	12-31-92	12-31-87
1-1-76 to 12-31-80	12-31-95	12-31-88
1-1-81 to 9-30-84	12-31-98	12-31-89

*Adapted from Chapter 17-61, Florida Administrative Code.

**BCA stands for "baseline contamination assessment."

Section 13. Out-of-Service Storage Tank System. For a storage tank system to be deemed out-of-service, the owner must meet the following requirements. Unless or until these requirements are met, the system shall be deemed in-service and must comply with all applicable provisions of this ordinance relating to an operating storage tank system.

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a. Registration Required. All owners of existing storage tank systems who wish to have their storage tank systems deemed out-of-service shall register with the Department within thirty (30) days of the effective date of this ordinance. Owners of storage tank systems which are operating as of the effective date of this ordinance, but who subsequently wish to have their storage tank system deemed out-of-service shall register with the Department within thirty (30) days of the change in their operating status. The registration shall be completed in the manner and on the forms prescribed by the Department. The form shall be signed by the owner and submitted to the Department, together with the appropriate registration fee. The Department shall issue a certificate of registration which shall be for a term not to exceed twelve (12) months. A certificate of registration may be renewed annually thereafter upon application to the Department for renewal and payment of the appropriate renewal fee. Notwithstanding the foregoing, a storage tank system may not be granted or maintain out-of-service status for more than thirty-six (36) consecutive months. A variance may be granted to allow additional time to remain out-of-service in cases of unique or special hardship, provided the owner applies for a variance in accordance with Section 19.

b. Removal of Petroleum Product. Owners of out-of-service storage tank systems shall remove all free petroleum

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product from the storage tank system within thirty (30) days of the effective date of this ordinance, or within thirty (30) days of the change in the system status from operating to

out-of-service. The storage tank system may be filled with water for ballasting. The water, when removed, shall be disposed of in an environmentally sound manner, consistent with federal, state, and local regulations.

c. **Security of the System.** An out-of-service storage tank system shall be secured against tampering and unauthorized filling, and inspected at least monthly to ensure security.

d. **Return to Service.** An Out-of-service storage tank system may be brought into service only if it meets the applicable requirements of Section 12 for an existing storage tank system, which include overfill protection, leak detection, and storage tank system retrofit or replacement, according to the compliance schedule, and the storage tank system owner has applied for and received an operation permit.

Section 14. Abandoned Storage Tank Systems.

a. **Registration Required.** Within thirty, (30) days of the effective date of this ordinance, all, owners of existing abandoned storage tank systems shall register with the Department in the manner and on the forms prescribed by the Department. The registration form shall be signed by the owner. The completed registration shall be submitted to the Department, together with the appropriate registration fee.

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b. **Removal of Petroleum Product.** Owners of abandoned storage tank Systems shall remove all free petroleum product from the storage tank system within thirty (30) days of the effective date of this ordinance.

c. **Closure Requirements.** Owners of abandoned storage tank systems shall make application to the Department for a closure permit within sixty (60) days of the effective date of this ordinance. Owners must, within one hundred eighty (180) days following the receipt of the closure permit, complete all closure process requirements in subsection 9e(2).

d. **Sale or Transfer of Abandoned Systems.** No person shall sell or transfer an abandoned storage tank system or land containing an abandoned storage tank system if there exists any reasonable evidence of the existence of such a system on the land, unless the purchasing party has been made fully aware of the presence of such a system.

Section 15. Operation and Maintenance Requirements.

a. **General.** All storage tank systems and associated leak detection systems shall be operated and maintained in a manner which will ensure compliance with this ordinance and the conditions of the permit.

b. Self-Compliance Monitoring.

(1) All continuously operating automatic leak detection systems or devices shall be installed, maintained, and

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operated in accordance with the manufacturer's requirement, and shall be inspected on a weekly basis.

(2) Leak detection wells installed pursuant to Section 11c shall be sampled on a weekly basis for evidence of discharge.

(a) Leak detection wells which contain more than one (1) foot of water shall be sampled as follows: A minimum of one (1) cup of fluid from the well shall be removed, using a Kemmerer-type sampler, bailer, or a sampler of similar design. The fluid shall be taken from the surface of the water table. The fluid shall be poured into a clean, clear glass container kept for this purpose and examined for signs of an oily layer or odor of petroleum product. The sample can be analyzed at the site or sent to a laboratory for analysis. The presence of an oily layer or odor of petroleum product, or the positive report by a laboratory that the sample contains petroleum product shall be treated as a discharge unless the owner or operator affirmatively demonstrates that no discharge has occurred.

(b) Leak detection wells which contain less than one (1) foot of water may not be sampled according to the procedure described in (a) above, but shall be sampled using an alternative vadose zone monitoring method that will indicate a discharge. The method utilized must be capable of distinguishing between past and present discharges in cases in which petroleum product contaminant levels exist due to previous discharges.

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(3) An alternative method for any of the self compliance monitoring methods set forth above may be approved by the Department upon demonstration by the applicant that the alternative method provides equivalent or superior leak detection capabilities.

c. System Testing.

(1) Conditions for Ordering Testing. The Department may order a test if:

(a) The owner or operator has failed to comply with the provisions of this ordinance; or,

(b) An investigation of an inventory discrepancy is required;
or,

(c) A tank and/or piping leak detection system or a ground water and/or vadose zone monitoring well indicates that a petroleum product has been or is being discharged; or,

(d) Contamination of the soil, ground water, or surface water exists in the vicinity and the system is reasonably likely to be a source of the contamination.

(2) Methods of Testing. Hydrostatic pressure tests shall be performed in accordance with NFPA 329, Chapter 4-3.10, or other tests of equivalent or superior accuracy. Such tests shall be conducted by a person trained and certified in the correct use of the necessary equipment by the manufacturer of the test equipment. The tests shall be performed in accordance with

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the procedures and requirements of the test system manufacturer. If for any reason, testing required by this ordinance cannot be performed, then the system shall be deemed abandoned.

(3) Schedule. The owner or operator shall schedule the test within seven (7) days of receipt of the order. Within thirty (30) days of receipt of the Department order, the test shall be performed. The Department may grant additional time to perform the test upon a showing of good cause by the owner or operator for an extension.

(4) Testing Results.

(a) Test results shall be reported to the Department within seven (7) working days after the test has been concluded. The Department may grant additional time for reporting test results upon a showing by the owner or operator of good cause for an extension.

(b) In the event, however, a test indicates a discharge or a failure or breach of integrity of the containment system, the owner or operator shall comply with the requirements of subsection "e" herein which relates to discharges.

d. Inspections and Record Keeping.

(1) General.

(a) The operator shall conduct monthly inspections of the readily accessible components of the storage tank system necessary to assure compliance with this ordinance and

shall maintain complete and detailed records of these inspections. However, as stated above leak detection Systems must be inspected on a weekly basis. Complete and detailed records of each leak detection system inspection must also be maintained.

(b) All records required by this ordinance shall be maintained by the owner or operator for a period of not less than two (2) years from the date of the event, occurrence, or transaction recorded. Said records shall be made available to the Department at any reasonable time.

(2) Department Inspections. The Department may enter and inspect a storage tank system for the purpose of ascertaining the state of compliance with this ordinance at any reasonable time, in accordance with the provisions of subsection 7(b).

(3) Type of Records. Records shall be developed and maintained to provide information on the following:

(a) Leak detection system operations, inspections, maintenance, and testing;

(b) Ground water and/or vadose zone monitoring well sampling and analyses results;

(c) Storage tank system pressure testing;

(d) Daily inventory measurements and reconciliations; and,

(e) Inspection, maintenance, and repair of the storage tank system or components thereof.

(4) Inventory. For each working day, the permittee shall be required to maintain an inventory of the petroleum product placed into, removed from, and remaining in each storage tank.

(a) Inventory discrepancies shall be reconciled each working day. In the event that the total discrepancy exceeds one per cent (1.0%) per day of the storage tank capacity continuing over any consecutive five- (5) day period, such discrepancy shall be reported to the Department. The inventory for the current day and the previous four (4) days shall be kept at the site of the storage tank system.

(b) The permittee shall investigate each inventory discrepancy in accordance with the following procedure. The investigation shall not be

concluded until the source of the discrepancy has been found; the storage tank system has been tested, repaired, or replaced; or the entire procedure has been completed:

i. Inventory, input, and output records shall be checked for arithmetical error.

ii. Inventory shall be checked for error in measurement.

iii. If the loss or gain is not reconcilable by steps "i" and "ii" above, or cannot be affirmatively demonstrated to be the result of theft, the accessible parts of the storage system shall be checked for damage or leaks.

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iv. Monitoring wells and leak detection systems shall be checked for signs of a discharge.

v.. Calibration of the inventory measuring system and any dispensers shall be checked.

vi. The entire storage system, excluding the vent, but including joints and remote fill lines, shall be tested in accordance with subsection "c" herein.

e. Discharges.

(1) A storage tank system discharge shall be reported to the Department within twenty-four (24) hours from the time the owner or operator knows or has evidence of the discharge. A written report that describes the discharge, actions taken to stop it, and actions taken to prevent a recurrence shall be provided to the Department within two (2) working days following the report of the discharge.

(2) The owner or operator of a storage tank system having a discharge shall comply with the following conditions:

(a) All petroleum product shall be removed from the storage tank system; and,

(b) The failed component of the storage tank system shall be replaced or retrofitted with product-tight secondary containment and a continuously operating, automatic leak detection system pursuant to subsection 12d; and,

(c) A discharge contamination assessment shall be conducted pursuant to Section 16.

Section 16. Contamination Assessment and Remedial Action.

a. General.

(1) Contamination assessments and remedial actions, when required pursuant to subsection "b" and "c" herein shall be conducted in accordance with written plans previously submitted to and approved by the Department. These plans will be developed in accordance with Chapter 17-70, Florida Administrative Code.

(2) Contamination assessments shall be conducted to quantify the vertical and horizontal extent of petroleum product contamination of soils, ground water, and surface water at and in the vicinity of a storage tank facility. Remedial actions shall be initiated to decontaminate soils, ground water, and surface water.

(3) The Department may require initial remedial action, including, but not limited to, removal of free product and excessively contaminated soils, and reducing the infiltration of storm water within the contaminated area pending final approval of contamination assessment and/or remedial action plans. In addition, the Department may grant approval for implementation of such measures requested by the owner or operator of a storage tank system.

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b. Contamination Assessments.

(1) Baseline. A baseline contamination assessment (BCA) is required to determine the concentration of petroleum product constituents in the soil, ground water, and surface water at a storage tank facility. The BCA will be required under the following circumstances:

(a) A BCA is required for all existing storage tank facilities at the time the storage tank system is replaced or retrofitted with secondary containment and continuously operating, automatic leak detection in accordance with the compliance schedule set forth in Section 12.

(b) A BCA is required for all new storage tank facilities located at a site at which an abandoned or out-of-service storage tank system is or was located. However, a BCA will not be required if a closure contamination assessment at the abandoned or out-of-service storage tank system has been conducted.

(2) Closure. A closure contamination assessment (CCA) may be required in connection with the closure of a storage tank system in accordance with subsection 9e.

(3) Discharge. A discharge contamination assessment (DCA) is required at any storage tank facility at which a discharge from a storage tank system occurs.

c. Remedial Actions.

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(1) It shall be the responsibility and obligation of the owner or operator who discharges or causes or permits the discharge of any petroleum product to the soil, ground water, or surface water of the County to cease said discharge; to retain, recover, and properly dispose of the discharged petroleum product, and any other substance contaminated therefrom; to restore the soil, ground water, and surface water, to the extent feasible, to their condition prior to any discharges at the site; and to remedy any damages caused by the discharge.

(2) Remedial actions shall be initiated to decontaminate soil, ground water, or surface water if the results of the contamination assessment indicate that concentrations of petroleum product constituents have exceeded or may exceed applicable standards established by the State of Florida. The determination of excessive soil contamination, ground water or surface water contamination will be based upon Chapter 17-70, Florida Administrative Code.

(3) Disposal and decontamination of all petroleum product and materials contaminated by petroleum product shall be disposed of accordance with applicable federal, state, and local laws and regulations.

(4) In the event of a discharge, the owner or operator of the storage tank system shall comply with subsection 12d herein.

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Section 17. Establishments of Fees. A schedule of fees as required by this ordinance shall be established by resolution of the Board.

Section 18. Violations; Enforcement; Remedies. Violations of this ordinance may be referred by the Department to the County's Codes Enforcement Board for enforcement action in accordance with Chapter 162, Florida Statutes, and County Ordinances 85-4 and 86-25 relating to the Codes Enforcement Board. In addition to the provisions of general law relating to the

enforcement of ordinances, the County shall have, in connection with its local pollution control program, all remedies of the Florida Department of Environmental Regulation under chapter 403, Florida Statutes, to enforce the provisions of this ordinance, which remedies include the following:

a. Judicial Remedies:

(1) The County may institute a civil action in a court of competent jurisdiction to establish liability and to recover damages for any injury to the water, or property, including animal, plant, and aquatic life, of the County caused by any violation. The County and the Department are without authority to bring a civil action or impose any penalty or fine on behalf of any person.

(2) The County may institute a civil action in a court of competent jurisdiction to impose and to recover a civil

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penalty for each violation in an amount of not more than \$10,000 for each offense. However, the court may receive evidence in mitigation. Each day during any portion of which such violation occurs constitutes a separate offense.

(3) It shall not be a defense to, or ground for dismissal of, these judicial remedies for damages and civil penalties that the County has failed to exhaust its administrative remedies, has failed to serve a notice of violation, or has failed to hold an administrative hearing prior to the institution of a civil action.

b. Administrative Remedies:

(1) The County may institute an administrative proceeding to establish liability and to recover damages for an injury to the water, or property, including animal, plant, or aquatic life, of the County caused by any violation. The County may order that the violator pay a specified sum as damages to the County. Judgment for the amount of damages may be entered in any court having jurisdiction thereof and may be enforced as any other judgment.

(2) If the County has reason to believe a violation has occurred, it may, through the Department, institute an administrative proceeding to be conducted in accordance with Section 21 to order the prevention, abatement, or control of the conditions creating the violation or other appropriate corrective action.

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(3) An administrative proceeding shall be instituted by the Department's serving of a written notice of violation upon the alleged violator by certified mail. The notice shall specify the provisions of the ordinance, permit, certificate, or order of the

Department alleged to be violated and the facts alleged to constitute a violation thereof. An order for corrective action may be included with the notice. However, no order shall become effective until after service and an administrative hearing, if requested within twenty (20) days after service. Failure to request an administrative hearing within this time period shall constitute a waiver thereof.

(4) Nothing herein shall be construed as preventing any other legal or administrative action in accordance with law.

c. Injunctive Relief.

(1) It is hereby found and declared that a violation of the provisions of this ordinance constitutes an irreparable injury to the citizens of Alachua County and the County may institute a civil action in a court of competent jurisdiction to seek injunctive relief to enforce compliance with this ordinance, a, permit, or order; to enjoin any violation of this ordinance, and to seek injunctive relief to prevent injury to the water and property, including animal, plant, and aquatic life, of the County and to protect human health, safety, and welfare caused or threatened by any violation.

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(2) All judicial and administrative remedies in this section are independent and cumulative, except that the judicial and administrative remedies to recover damages are alternative and mutually exclusive.

Section 19. Approval of Variances or Alternative Procedures.

a. The owner or operator of a storage tank system which is subject to the provisions of this ordinance may apply for a variance from the provisions of subsection 8c relating to siting prohibitions, from the provisions of subsection 9e(2) (a) relating to system removal, and from the provisions of subsection 13a relating to out-of-service system status to the extent indicated within these subsections.

The owner or operator of a storage tank system which is subject to the provisions of this ordinance may apply for approval of an alternative procedure or process in connection with and to the extent indicated in subsection 10b(3), 10c(3), 10d(1) and (2), 11a(3), 11d(1)(b) and (c), 11d(2)(b), 11d(3)(b), 15b(3), and 15c(2).

b. The owner or operator of a storage tank system seeking a variance or approval of an alternative procedure shall make and complete written application in the manner and on the appropriate form prescribed by the Department. The application shall be completed with all requested information and shall be

signed by the owner or operator, as applicable. The completed application shall be submitted to the Department, together with the appropriate application fee.

c. The application form for a variance or approval of an alternative procedure shall set forth at a minimum the following information:

(1) The specific storage tank system for which the variance or approval of an alternative procedure is sought.

(2) The specific provision of this ordinance from which a variance or approval of an alternative procedure is sought.

(3) The basis for the variance or approval of the alternative procedure, including, but not limited to, the hardship which would result from compliance with the established ordinance provision.

d. In applications involving approval of an alternative procedure, in addition to the foregoing information, the following information shall also be supplied:

(1) A description of the alternative procedure for which approval is sought and a demonstration that the alternative procedure provides an equivalent or superior degree of protection for the soils, ground water, or surface water of the County as the established ordinance requirement.

(2) A demonstration that the alternative procedure is at least as effective as the established ordinance requirement.

e. The Department shall specify by order each variance or alternative procedure approved for an individual storage tank System or shall issue a written order denying such request and serve a copy of such order to the applicant by certified mail or personal service.

f. The Owner or operator of a storage tank system who applied for, but was denied a variance or approval of an alternate procedure, may seek review of such order by filing an appeal with the Department within fifteen (15) days of service of such order. At the time the appeal is filed, the appropriate appeal filing fee shall be paid.

g. A properly filed appeal shall, at least, contain the following information:

(1) The nature of the determination sought to be reviewed;

(2) A brief statement of the facts which form the subject matter upon which a determination was made;

(3) The determination from which the appeal is taken; and,

(4) The grounds upon which the applicant seeks review of the determination.

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h. If a request for an appeal is filed with the Department, a hearing shall be held in accordance with the provisions of Section 21 of this ordinance.

Section 20. Designation of Hearing Official. The Board shall designate a hearing official to conduct public hearings as required by the provisions of this ordinance. The hearing official shall conduct the public hearings in accordance with the provisions of Section 21.

Section 21. Hearing Procedure.

a. When a person has timely filed for a written hearing to contest a decision of the Department regarding denial, suspension, or revocation of a permit, or to appeal a decision of the Department regarding a variance or approval of an alternative process, or when an administrative proceeding is to be conducted pursuant to subsection 18b, the Hearing Official shall conduct a public hearing to consider the matter.

b. The Hearing Official shall give the applicant for the hearing and the Department a minimum of ten (10) days prior written notice of the time, place, and nature of the hearing. In conducting a public hearing, the Hearing Official shall have authority to:

(1) Issue notice of hearings.

(2) Administer oaths and affirmations.

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(3) Issue subpoenas authorized by law, including those requiring the attendance of witnesses and the production of documents and things which may be used as evidence.

(4) Rule upon motions presented and offers of proof and receive relevant evidence.

- (5) Issue appropriate orders to effectuate discovery.
- (6) Regulate the course of the public hearing
- (7) Dispose of procedural requests or similar matters.
- (8) Enter any order, consistent with the authority granted by this Section, to carry out the purposes of this section.
- (9) Make proposed orders and issue findings of fact and conclusions of law.
- (10) Grant continuances upon stipulation of the parties or other good cause shown.
- (11) Hold conferences for the settlement or simplification of the issues by consent of the parties.
- (12) Develop reasonable regulations for the conduct of such hearings.
- (13) Affirm, reverse, or modify the decision or order of the Department which is being appealed.

c. A party to a hearing shall be afforded the following rights:

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- (1) To appear with and be represented by an attorney at law.
 - (2) To call and examine witnesses.
 - (3) To introduce relevant evidence.
 - (4) To cross-examine adverse witnesses on any relevant matter.
 - (5) To rebut evidence presented.
- d. An official record of all public hearings shall be made.
- e. Following the public hearing, the Hearing Official shall, within a reasonable time thereafter, file with the Department and serve a copy of the same on all parties of record, a written report on the matter which shall include the following:
- (1) The style or title of the proceeding.
 - (2) The time and place of the hearing.

(3) Relevant issues presented.

(4) Findings of fact, conclusions of law, and recommended order.

f. Within fifteen (15) days after receiving the Hearing Official's findings and recommended order, the Department shall consider same and the Department may adopt, reject, or modify the order. The Department shall notify the applicant in writing of the Department's final decision in the matter.

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g. Application for judicial review of any final order of the Department shall be made to the Circuit Court in and for Alachua County.

Section 22. Use of Awards.

a. Any monies recovered by the County in an action against any person who has caused pollution in the County, in violation of this ordinance shall be used to restore the polluted area which was the subject of suit to its former condition or to otherwise enhance pollution control activities in the polluted area.

b. There is hereby created the Alachua County Pollution Recovery Fund which is to be supervised and used by the County to restore polluted areas of the County, as defined by the Department, to the condition they were in before the pollution occurred, or to otherwise enhance pollution control activities in the polluted area to the extent of monies available in the fund. The fund shall consist of all monies specified in subsection "a." The monies shall be disbursed first to pay all amounts necessary to restore the respective polluted areas which were the subjects of County actions or to otherwise enhance pollution control activities in such areas. Any monies remaining in the fund shall then be used by the County, as it sees fit, to pay for any work needed to restore areas which required more money than the County was able to obtain by court action or otherwise; or to

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restore areas in which the County brought suit, but was unable recover any monies from the alleged violators.

Section 23. Severability. It is the declared intent of the Board of County Commissioners that, if any section, subsection, sentence, clause, phrase, or provision of this ordinance is held invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be so construed as to render invalid or unconstitutional the remaining provisions of this ordinance.

Section 24. Liberal Construction. This, ordinance shall be liberally construed in order to effectively carry out the purposes hereof which are deemed to be in the best interest of the public health, safety, and welfare of the citizens and residents of Alachua County, Florida.

Section 25. Repealing Clause. Alachua County Ordinances 85-7 and 85-13 are hereby repealed in their entirety.

Section 26. Inclusion in the Code. It is the intention of the Board of County Commissioners of Alachua County, Florida, and it is hereby provided that the provisions of this ordinance shall become and be made a part of the Code of Laws and Ordinances of Alachua County, Florida; that the sections of this ordinance may be renumbered or relettered to accomplish such intention; and

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the word "ordinance" may be changed to "section", "article", or other appropriate designation.

Section 27. Filing. Pursuant to Section 125.66, Florida Statutes, a certified copy of this ordinance shall be filed with the Department of State by the Clerk of the Board of County Commissioners within ten (10) days after enactment by the Board of County Commissioners.

Section 28. Effective Date. Pursuant to Section 376.317, Florida Statutes, this ordinance shall become effective upon approval of the ordinance by the Florida Department of Environmental Regulation, or such other earlier date, as may be authorized by law.

DULY ADOPTED in Special session, this 22nd day of June, A.D., 1987.

BOARD OF COUNTY COMMISSIONERS OF
ALACHUA COUNTY, FLORIDA

By: _____
Edwin B. Turlington, Chairman

ATTEST:

A. Curtis Powers, Clerk

APPROVED AS TO FORM

(SEAL) _____
Alachua County Attorney

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CERTIFICATE OF CLERK

I DO HEREBY CERTIFY that the annexed copy of Ordinance 87-10 is a true, correct, and compared copy of the Ordinance as adopted by the Board of County Commissioners at a advertised Public Hearing held on June 22, 1987.

WITNESS my hand and official seal of the Board of County Commissioners of Alachua County, Florida this 23rd day of June, 1987.

(SEAL)

A. Curtis Powers
Clerk to the Board of County
Commissioners of Alachua County